

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fendley	Team: Team # 3	CCRB Case #: 201303919	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/19/2012 10:30 PM	Location of Incident: Marcy Avenue and Macon Street	Precinct: 79	18 Mo. SOL 3/19/2014	EO SOL 3/19/2014	
Date/Time CV Reported Thu, 09/20/2012 1:15 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/20/2012 1:15 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hemadeh Fattah	23748	945709	079 PCT
2. POM Konrad Zakiewicz	13914	945127	PBBN SU
3. POM Lukasz Organistka	19797	944861	079 PCT
4. POM Brian Christensen	29540	940002	079 PCT
5. POM Andy Scantlebury	03699	937500	PSA 9
6. POM Philip Case	27858	932140	079 PCT
7. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Joseph Cruzado	04330	934706	079 PCT
2. POM Brian Alexander	00570	948599	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Brian Christensen	Abuse: PO Brian Christensen refused to provide his shield number to § 87(2)(b)	
C.POM Konrad Zakiewicz	Abuse: PO Konrad Zakiewicz refused to provide his shield number to § 87(2)(b)	
D.POM Hemadeh Fattah	Abuse: PO Hemadeh Fattah refused to provide his shield number to § 87(2)(b)	
E.POM Hemadeh Fattah	Abuse: PO Hemadeh Fattah threatened § 87(2)(b) with the use of force.	
F.POM Konrad Zakiewicz	Discourtesy: PO Konrad Zakiewicz spoke rudely to § 87(2)(b)	
G.POM Philip Case	Abuse: PO Philip Case threatened § 87(2)(b) with the use of force.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

§ 87(2)(b) filed this complaint over the phone with the CCRB on September 20, 2012 (encl. 3 A-C).

At approximately 10:30 p.m., on September 19, 2012, PO Brian Christensen, PO Lukasz Organistka and PO Konrad Zakiewicz, all of the 79<sup>th</sup> Precinct, stopped § 87(2)(b)'s vehicle in the vicinity of Marcy Avenue and Macon Street in Brooklyn. The following allegations resulted.

- **Allegation A – Abuse of Authority: Officers searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)

- **Allegation B – Abuse of Authority: PO Brian Christensen refused to provide his shield number to § 87(2)(b)**
- **Allegation C – Abuse of Authority: PO Konrad Zakiewicz refused to provide his shield number to § 87(2)(b)**
- **Allegation D – Abuse of Authority: PO Hemadeh Fattah refused to provide his shield number to § 87(2)(b)**

§ 87(2)(g)

- **Allegation E – Abuse of Authority: PO Hemadeh Fattah threatened § 87(2)(b) with the use of force.**

§ 87(2)(g)

- **Allegation F – Discourtesy: PO Konrad Zakiewicz spoke rudely to § 87(2)(b)**

- **Allegation G – Abuse of Authority: PO Philip Case threatened § 87(2)(b) with the use of force.**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

§ 87(2)(g)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black man who is 5'8" tall, weighs 220 pounds and has brown hair and brown eyes.
- At the time of his CCRB interview, § 87(2)(b) was § 87(2)(b)

### CCRB Statement

§ 87(2)(b) provided a brief phone statement during the intake of his complaint on September 20, 2012 (encl. 3 A-C), and provided another brief phone statement on September 25, 2012 (encl. 4 A). On October 12, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 4 B-I).

§ 87(2)(g)

On September 19, 2012, at approximately 10:30 p.m., § 87(2)(b) was driving his green Honda when he was pulled over by an unmarked, black police town car in the vicinity of Macon Street and Marcy Avenue in Brooklyn. Earlier that evening, § 87(2)(b) and his three friends, identified through the investigation as § 87(2)(b) and § 87(2)(b) were standing outside of § 87(2)(b)'s parked vehicle, playing music on MacDonough Street between Marcy Avenue and Tompkins Avenue. An unmarked, black town car drove past § 87(2)(b) and his friends two or three times, but only looked over at them and continued driving. During § 87(2)(b)'s phone statement he alleged that officers pointed their guns at him while driving past, but he did not allege that during his sworn CCRB statement.

§ 87(2)(b) and § 87(2)(b) then got into § 87(2)(b)'s vehicle to drive somewhere to get some food. Upon stopping at the stop sign at MacDonough Street and Marcy Avenue, § 87(2)(b) signaled, made a right turn onto Marcy Avenue and was pulled over by the police vehicle with lights and sirens. § 87(2)(b) pulled over and the town car pulled directly behind his vehicle.

Although § 87(2)(b) said that four officers exited the police vehicle, the investigation determined that PO Brian Christensen, PO Konrad Zakiewicz and PO Lukasz Organistka, all of the 79<sup>th</sup> Precinct, were the only three officers who were in the police vehicle and who approached § 87(2)(b)'s vehicle. PO Christensen and another officer approached § 87(2)(b)'s door. § 87(2)(b) incorrectly identified this second officer by his shield number as Sgt. Joseph Cruzado of the 79<sup>th</sup> Precinct, but the investigation determined this officer to be PO Zakiewicz. Sgt. Cruzado was incorrectly identified by § 87(2)(b) as a subject officer in another CCRB case filed by § 87(2)(b) on the same day. PO Organistka approached the front passenger side of the vehicle, where § 87(2)(b) was located. PO Christensen told § 87(2)(b) that he had been pulled over for running a stop sign. § 87(2)(b) yelled and asked why the officers always pulled him over, said he wanted all the officers' shield numbers and said he was being harassed. PO Christensen told him to put his hands up and § 87(2)(b) put his hands on his steering wheel. PO Christensen then told § 87(2)(b) to get out of the car and that backup had been called. § 87(2)(b) asked for the officers' shield numbers again, which they did not provide. § 87(2)(b) and § 87(2)(b) were all asked to exit § 87(2)(b)'s vehicle and were asked for their

licenses. PO Zakiewicz searched inside § 87(2)(b)'s pockets and found a four-inch pocket knife. PO Zakiewicz told § 87(2)(b) to sit on the trunk of his vehicle, which he did, and he was quickly joined by § 87(2)(b) and § 87(2)(b).

PO Christensen searched § 87(2)(b)'s vehicle in the middle console, under the front seats and in the glove compartment. An officer searched under the back seats. § 87(2)(b) incorrectly identified this officer as PO Hemadeh Fattah of the 79<sup>th</sup> Precinct based on prior incidents he has had with him; however, the investigation determined this officer to be PO Organistka. § 87(2)(b) thought PO Zakiewicz searched his vehicle as well, but was not sure. § 87(2)(b) saw the search because he turned around towards his car and witnessed the officers inside his vehicle with their flashlights on. Marijuana was found under the back seat of the passenger side of § 87(2)(b)'s vehicle, where § 87(2)(b) had sat. However, § 87(2)(b) was unsure who the marijuana belonged to. While the search was still in progress, an officer, determined through the investigation to be Sgt. Cruzado, responded to the backup call. The investigation determined that Sgt. Cruzado arrived at the location with PO Hemadeh Fattah of the 79<sup>th</sup> Precinct. Sgt. Cruzado told the officers to write summonses so that there would be documentation of the marijuana possession if there ended up being a complaint. § 87(2)(b) was told he would be let go for the marijuana and the knife if he allowed the officers to search his trunk. § 87(2)(b) told PO Fattah that the marijuana was not his, but that the officers could search his trunk if he would be let go. § 87(2)(b) and § 87(2)(b) got off of the trunk of § 87(2)(b)'s vehicle and stood just behind it while § 87(2)(b) popped the trunk. § 87(2)(b) believed it was PO Christensen and PO Fattah that searched his trunk, but was not positive. The search was witnessed by § 87(2)(b) and Sgt. Cruzado. Nothing was found in the trunk and § 87(2)(b) and § 87(2)(b) were allowed to re-enter § 87(2)(b)'s vehicle. PO Christensen, PO Organistka, PO Zakiewicz, Sgt. Cruzado, and another officer, determined through the investigation to be PO Fattah, had been standing behind § 87(2)(b)'s vehicle talking for about two minutes when a van arrived. The investigation determined that the officers inside of the van were PO Brian Alexander, PO Philip Case, and PO Andy Scantlebury, all of the 79<sup>th</sup> Precinct.

PO Christensen had § 87(2)(b) exit his vehicle, put him in handcuffs, told him he would be arrested for § 87(2)(b) and walked him to the van. At the van, § 87(2)(b) asked for officers' shield numbers and said he was being harassed. PO Fattah answered, "If you even have a gun, just run because we're going to shoot you." § 87(2)(b) did not respond, but got into the van.

#### § 87(2)(b)'s Telephone Statement

§ 87(2)(b) was interviewed over the phone on March 20, 2013 (encl. 4 J-L), because he no longer resided in New York City. After his phone interview, one letter was mailed and three calls were placed to § 87(2)(b) but he did not send back his notarized verification form.

§ 87(2)(g)

On September 19, 2012, at approximately 10:30 p.m., in the vicinity of Macon Street and Marcy Avenue, § 87(2)(b) and § 87(2)(b) were pulled over in their vehicle by officers. Earlier that evening, all four individuals were standing around § 87(2)(b)'s vehicle talking before they entered the vehicle. None of them had been smoking prior to entering the vehicle or while in the vehicle. § 87(2)(b) was pulled over by officers identified by the investigation as PO Christensen, PO Organistka and PO Zakiewicz. The four men were asked to exit § 87(2)(b)'s vehicle. A patrol van arrived shortly thereafter, containing three officers that were identified by the investigation as PO Alexander, PO Scantlebury and PO Case. Upon the arrival of the patrol van, the four men were told to stand at

the back of their vehicle and were all frisked and searched by PO Alexander, PO Scantlebury and PO Case.

§ 87(2)(b) saw PO Christensen, PO Organistka and PO Zakiewicz search “everywhere,” specifically under the seats, in the glove compartment, and in the ash trays. PO Zakiewicz said that he had found a nickel bag of marijuana on the floor in front of the driver’s seat, “in plain view.” § 87(2)(b) and § 87(2)(b) all made comments to the officers, asking why they kept being harassed and illegally searched for no reason. PO Zakiewicz replied, “Shut the fuck up.” § 87(2)(b) and § 87(2)(b) were then told to get back into the vehicle while the officers decided what to do. About thirty seconds later, the men were told to exit § 87(2)(b)’s vehicle again. § 87(2)(b) and § 87(2)(b) were all handcuffed by PO Christensen, PO Organistka and PO Zakiewicz and placed into the back of the patrol van.

§ 87(2)(b) asked why he was being arrested. PO Case told § 87(2)(b) to “shut up” or he would punch § 87(2)(b) in the face. § 87(2)(b) PO Alexander and PO Scantlebury were all in the patrol van with § 87(2)(b) when the comment was made.

### **Attempts to Contact Civilians**

On April 18, 2013, the undersigned visited § 87(2)(b) at Rikers Island, § 87(2)(b) § 87(2)(b) stated that she did not want to provide a statement and signed a withdrawal form in regards (encl. 9 K). During a telephone conversation on May 3, 2013, § 87(2)(b) stated that he did not want to provide a statement because he did not have time to participate in the complaint, and withdrew his portion of the complaint (encl. 8 O). Both § 87(2)(b) and § 87(2)(b) withdrew voluntarily and neither was coerced by the CCRB or the NYPD into withdrawing their portions of the complaint.

### **NYPD Statements:**

#### **Subject Officer: PO BRIAN CHRISTENSEN**

- *PO Christensen was § 87(2)(b) years old at the time of the incident. He is a white man who is 6’ tall, weighs 225 pounds and has brown hair and blue eyes.*
- *PO Christensen’s tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to Anticrime with PO Zakiewicz and PO Organistka, wore plainclothes and was in an unmarked, black Ford Crown Victoria, #1080.*

### **Memo Book**

At 10:20 p.m., PO Christensen conducted a car stop on Macon Street and Marcy Avenue because the driver failed to stop at a stop sign. Upon approach, PO Christensen could smell the odor of marijuana and a Ziploc bag of marijuana was in the center console. At 10:26 p.m., four individuals were arrested by Conditions. The individuals were § 87(2)(b) DOB: § 87(2)(b), who was the vehicle operator, § 87(2)(b) DOB: § 87(2)(b), § 87(2)(b) DOB: § 87(2)(b) and § 87(2)(b) DOB: § 87(2)(b) (encl. 5 B-D).

### **CCRB Statement**

PO Christensen was interviewed at the CCRB on May 29, 2013 (encl. 5 E-G). His statement is summarized below.

On September 19, 2012, at approximately 10:30 p.m., PO Christensen, PO Organistka and PO Zakiewicz observed § 87(2)(b) roll through a stop sign in the vicinity of Macon Street and Marcy Avenue in Brooklyn. PO Christensen did not remember driving by § 87(2)(b) earlier

that evening and could not remember driving down MacDonough Street that evening. The officers pulled § 87(2)(b) over with lights and sirens. All three officers exited their police vehicle and PO Christensen and PO Zakiewicz approached the driver's side of § 87(2)(b)'s vehicle and PO Organistka approached the passenger's side. From about 5-10 feet away from § 87(2)(b)'s vehicle, PO Christensen could smell the odor of marijuana. The driver's window was rolled down at that point. Other cars were parked in the area, but the odor became stronger as PO Christensen approached § 87(2)(b)'s vehicle. PO Christensen did not remember if PO Organistka or PO Zakiewicz indicated to him whether they smelled the odor of marijuana as well. PO Christensen did not see any of the individuals smoking anything. § 87(2)(b) was being loud, but PO Christensen did not remember what exactly he was saying. PO Christensen did not remember any of the other passengers in § 87(2)(b)'s vehicle being loud.

PO Christensen could not remember if he was standing at the front driver's side door or at the back driver's side door, but he knew that at some point he was looking through § 87(2)(b)'s window. PO Christensen observed a small Ziploc bag, a dime bag, of marijuana plainly visible in the center console of § 87(2)(b)'s vehicle, between the driver's and the passenger's seats. PO Christensen could see the marijuana just by looking into § 87(2)(b)'s vehicle. The marijuana was a green, leafy substance. Based on PO Christensen's experience and also the strong odor of marijuana, which was emanating from the vehicle, PO Christensen believed the bag contained marijuana. Other than that one bag, PO Christensen could not recall noticing anything else in § 87(2)(b)'s vehicle.

PO Christensen, PO Zakiewicz and PO Organistka ordered everyone to step out of vehicle because the individuals were effectively under arrest at that time due to the bag of marijuana in plain view and they complied. All four individuals were frisked and searched, but PO Christensen could not recall which ones he frisked or searched or how many. The four individuals were then taken to back of § 87(2)(b)'s vehicle. Sgt. Cruzado was called to verify the arrests and he assigned the four arrests to members of the Conditions Unit. § 87(2)(b)'s vehicle was searched in every place where narcotics can be stored, but PO Christensen could not recall specifics. Because of where the marijuana was found, PO Christensen knew the middle console was searched, but he could not remember if he looked anywhere else. PO Christensen did not remember which officer or officers searched § 87(2)(b)'s vehicle. PO Christensen did not know how long the four arrestees were behind § 87(2)(b)'s vehicle, but estimated it to be a few minutes. PO Christensen did not think that the four arrestees were asked to get back into § 87(2)(b)'s vehicle at the conclusion of the vehicle search, but he did not remember. The Conditions team transported § 87(2)(b) and § 87(2)(b) to the stationhouse because Sgt. Cruzado reassigned the arrests to them.

Neither PO Christensen nor any other officer said, "Shut up or I'll punch you in the face," "If you have a gun just run because we're going to shoot you," "Shut the fuck up" or use any profanity at all. At no point was PO Christensen asked for his shield number and he did not know if any other officer was asked for their shield number.

**Subject Officer: PO HEMADAH FATTAH**

- *PO Fattah was § 87(2)(b) old at the time of the incident. He is a white man who is 5'8" tall, weighs 200 pounds and has brown hair and brown eyes.*
- *PO Fattah worked from 5:30 p.m. on September 19, 2012, to 2:05 a.m. on September 20, 2012. PO Fattah did not know his assignment, with whom he was working, whether he was in plainclothes or in uniform, or whether he was assigned to a marked vehicle or not.*

**Memo Book**

PO Fattah had no memo book entries regarding this incident (encl. 5 I-J).

### **CCRB Statement**

PO Fattah was interviewed at the CCRB on May 28, 2013 (encl. 5 K-N). His statement is summarized below.

PO Fattah did not have an independent recollection of the incident. PO Fattah did not remember either himself or another officer searching § 87(2)(b)'s vehicle, threatening to arrest any individual, or frisking or searching any individual. Neither PO Fattah nor any other officer said "If you even have a gun cause we're going to shoot you," "Shut the fuck up," or use any profanity. PO Fattah said that he would never make a threat.

### **Subject Officer: PO LUKASZ ORGANISTKA**

- *PO Organistka was § 87(2)(b) old at the time of the incident. He is a white man who is 6'1" tall, weighs 205 pounds, and has brown hair and blue eyes.*
- *PO Organistka's tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to Anticrime with PO Zakiewicz and PO Christensen, was dressed in plainclothes and was assigned to an unmarked vehicle, #1080.*

### **Memo Book**

PO Organistka did not have any memo book entries pertaining to this incident (encl. 5 P-R).

### **CCRB Statement**

PO Organistka was interviewed at the CCRB on June 27, 2013 (encl. 5 S-T). His statement is summarized below.

On September 19, 2012, at around 10:30 p.m., at Marcy Avenue and Macon Street, PO Organistka, PO Christensen, and PO Zakiewicz pulled § 87(2)(b)'s vehicle over for not stopping at a stop sign. When the three officers were approaching the civilian vehicle, they smelled an odor of marijuana, although PO Organistka could not recall who smelled it first, whether they spoke amongst themselves of the odor or if he made any comment about the odor.

PO Organistka recalled there being only three civilians inside of § 87(2)(b)'s vehicle. However, § 87(2)(b) and § 87(2)(b) were inside of the vehicle. PO Organistka approached the passenger side. PO Organistka could not recall any officers, including himself, issuing any commands and he could not recall the civilians' demeanors. PO Christensen saw marijuana in plain view in front of the car, but PO Organistka could not recall exactly where. PO Organistka did not see the marijuana in plain view himself and only learned of it later in the incident or perhaps even afterwards. Eventually, § 87(2)(b) and § 87(2)(b) exited and stood at the end of the vehicle. PO Organistka could not remember if any of the officers said anything to the civilians during this time, or whether the civilians were compliant.

The officers then called for additional units because the civilians were to be arrested for marijuana, requiring a sergeant to be present for arrest approval. PO Organistka could not recall observing any officer entering and searching the vehicle and he did not recall doing so himself. Sgt. Cruzado arrived with an officer, determined through the investigation to be PO Hemadeh Fattah of the 79<sup>th</sup> Precinct. § 87(2)(b) and § 87(2)(b) were all handcuffed. PO Organistka could not recall whether either he or any other officer said, "Shut up or I'll punch you in the face," "Shut the fuck up," or used any profanities. PO Organistka could not remember providing his name or shield number, but also did not remember if anyone requested it.



**Subject Officer: PO KONRAD ZAKIEWICZ**

- *PO Zakiewicz was § 87(2)(b) old at the time of the incident. He is a white man who is 6'3" tall, weighs 265 pounds and has blond hair and brown eyes.*
- *PO Zakiewicz's tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to Anticrime, working with PO Christenson and PO Organistka, wore plainclothes and was assigned to an unmarked sedan, #1080.*

**Memo Book**

PO Zakiewicz had no entries in his memo book pertaining to the incident (encl. 5 V-Y).

**CCRB Statement**

PO Zakiewicz was interviewed at the CCRB on June 25, 2013 (encl. 5 Z-AA). His statement is summarized below.

PO Zakiewicz did not have an independent recollection of the incident. However, PO Zakiewicz denied saying or hearing another officer say, "Shut up or I'll punch you in the face," "If you have a gun just run because we're going to shoot," or "Shut the fuck up."

**Witness Officer: SGT JOSEPH CRUZADO**

- *Sgt. Cruzado was § 87(2)(b) old at the time of the incident. He is a white man who is 5'8" tall, weighs 200 pounds and has black hair and brown eyes.*
- *Sgt. Cruzado's tour began at 5:27 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned as the Anticrime Sergeant with PO Fattah, wore plainclothes and was assigned to an unmarked vehicle, #8428.*

**Memo Book**

Sgt. Cruzado had a note for his end of tour at 2:10 a.m. However, it was crossed out, the time was changed to 10:10 p.m., and a note about four arrests at the corner of Macon Avenue and Marcy Street by Anticrime and assigned to Conditions was written in. The line immediately below that is not a new end of tour, but the beginning of his next tour. During his CCRB Interview, when Sgt. Cruzado was asked if he had any memo book entries pertaining to the incident he said that he did and he read the note about four arrests (encl. 5 AC-AE).

**CCRB Statement**

Sgt. Cruzado was interviewed at the CCRB on July 25, 2013 (encl. 5 AF-AG). His statement is summarized below.

On September 19, 2012, at approximately 10:10 p.m., Sgt. Cruzado was on patrol with PO Fattah when he received a radio transmission requesting his verification of arrests from his Anticrime team, determined through the investigation to be PO Christensen, PO Organistka and PO Zakiewicz. Sgt. Cruzado arrived at Marcy Avenue and Macon Street and saw that § 87(2)(b) and § 87(2)(b) were handcuffed already and were on the bumper of § 87(2)(b)'s vehicle. Also, the Conditions team officers, identified through the investigation as PO Alexander, PO Scantlebury and PO Case, were already present when Sgt. Cruzado arrived. Sgt. Cruzado was told that the Anti-Crime team had seen a vehicle infraction, pulled over the vehicle, and seen either a knife or marijuana in plain view.

Sgt. Cruzado told the Anti-Crime officers that the arrest would be reassigned to Conditions and PO Alexander took the arrest. Sgt. Cruzado saw § 87(2)(b) and § 87(2)(b) being walked over to the transport vehicle and was present until they all

left. As § 87(2)(b) was being walked over to the transport vehicle, he asked what was going on and was about eight feet away from Sgt. Cruzado when he requested the sergeant's name and shield number. Sgt. Cruzado identified himself as the Sergeant and provided both his name and his shield number to § 87(2)(b). Sgt. Cruzado did not hear another officer say, "Shut up or I'll punch you in the face," "If you have a gun just run because we're going to shoot you," or "Shut the fuck up." Neither Sgt. Cruzado nor any other officer used any profanities. Sgt. Cruzado did not see any officer search § 87(2)(b)'s vehicle or frisk and search any individual. The Conditions officers took the four individuals back to the precinct and Sgt. Cruzado sent his Anti-Crime team back out on patrol.

**Witness Officer: PO BRIAN ALEXANDER**

- *PO Alexander is a white man who is 5'10" tall, weighs 180 pounds and has brown hair and brown eyes.*
- *PO Alexander's tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to conditions with PO Scantlebury, was dressed in uniform, and was assigned to a marked van, #8521.*

**Arrest Reports**

§ 87(2)(b) was found in possession of small quantity of marijuana and another bag of marijuana in his front shorts pocket. § 87(2)(b) and § 87(2)(b) were found in possession of a small quantity of marijuana in public view (encl. 6 V-AD).

**Memo Book**

"At 10:26 p.m., PO Alexander was informed by PO Brian Christensen, shield number 29540, that the defendant was observed driving on MacDonough Street towards Marcy Avenue in a Green Honda accord when he failed to make a complete stop at a stop sign when turning onto Marcy Avenue. Defendants were found in possession of a small quantity of marijuana in public view upon car stop. § 87(2)(b) and § 87(2)(b) were arrested at the corner of Macon Street and Marcy Avenue and a sergeant was notified. At 10:31 p.m., PO Alexander arrived at the 79<sup>th</sup> Precinct stationhouse (encl. 5 AI-AK).

**CCRB Statement**

Sgt. Cruzado was interviewed at the CCRB on July 25, 2013 (encl. 5 AL-AM). His statement is summarized below.

At approximately 10:26 a.m. on September 19, 2012, the Anticrime team stopped a car near Marcy Avenue and Macon Street and called PO Alexander, PO Scantlebury and PO Case for backup because there were multiple occupants in the vehicle.

Upon arriving at the location, PO Alexander observed PO Christensen and Sgt. Cruzado, but he could not recall where exactly they were situated. PO Christensen explained that he had observed a vehicle failing to make a complete stop at a stop sign. PO Alexander could not recall if he was given any information regarding the marijuana. PO Alexander observed four individuals, identified through the investigation as § 87(2)(b) and § 87(2)(b) in § 87(2)(b)'s vehicle. The individuals were taken out of § 87(2)(b)'s vehicle and were handcuffed, but PO Alexander could not recall by whom. PO Alexander did not recall if he transported any of the arrestees.

PO Alexander did smell the odor of marijuana emanating from § 87(2)(b)'s vehicle as he walked up to it while speaking with PO Christensen. PO Alexander took the four arrests because Sgt. Cruzado assigned the arrests to him. PO Alexander did not search § 87(2)(b)'s vehicle and did not see any other officer do so. Neither PO Alexander nor any other officer said,

“Shut up or I’ll punch you in the face,” “Shut the fuck up,” or “If you have a gun you can just run because we’re going to shoot you.”

**Witness Officer: PO PHILIP CASE**

- *PO Case was § 87(2)(b) old at the time of the incident. He is a black man who is 6’ tall, weighs 240 pounds and has black hair and brown eyes.*
- *PO Case’s tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to Conditions with PO Scantlebury and PO Alexander, was in uniform and was assigned to a marked RMP, #3212.*

**Memo Book**

PO Case had no memo book entries pertaining to the incident (encl. 5 AO-AP).

**CCRB Statement**

PO Case appeared at the CCRB to make a statement on August 13, 2013 (encl. 5 AQ-AR). His statement is summarized below.

PO Case did not have an independent recollection of the incident. PO Case did not see Sgt. Cruzado, PO Fattah, PO Zakiewicz or PO Organistka search § 87(2)(b)’s vehicle or frisk or search any of the individuals that were in § 87(2)(b)’s vehicle that evening. Neither PO Case nor any other officer said “shut up or I’ll punch you in the face,” “if you have a gun, just run because we’re going to shoot you,” “shut the fuck up” or used any profanity. At no point did an officer refuse to provide their name or shield number.

**Witness Officer: PO ANDY SCANTLEBURY**

- *PO Scantlebury was § 87(2)(b) old at the time of the incident. He is a black man who is 6’2” tall, weighs 215 pounds and has brown hair and brown eyes.*
- *PO Scantlebury’s tour began at 5:30 p.m. on September 19, 2012, and concluded at 2:05 a.m. on September 20, 2012. He was assigned to Conditions with PO Case and PO Alexander, was in uniform and was assigned to a marked van, #8521.*

**Memo Book**

PO Scantlebury had no memo book entries pertaining to this incident (encl. 5 AT-AU).

**CCRB Statement**

PO Scantlebury was interviewed at the CCRB on October 9, 2013 (encl. 5 AV-AW). His statement is summarized below.

PO Scantlebury vaguely recalled being summoned to assist the Anticrime team in the vicinity of Marcy Avenue and Macon Street in Brooklyn. When PO Scantlebury arrived, the situation was under control and he did not take any police actions or interact with any civilians. Neither PO Scantlebury nor any other officer searched civilians’ vehicle or frisked and searched any individual. PO Scantlebury was not positive who was driving, but knew that it was not him because he does not usually driver. Neither PO Scantlebury nor any other officer said, “Shut up or I’ll punch you in the face,” “If you have a gun, just run because we’re going to shoot you,” “Shut the fuck up,” or used any profanities. Neither PO Scantlebury nor any other officer refused to provide their name or shield number.

**NYPD Documents**

**Roll Call**

The Roll Call for the 79<sup>th</sup> Precinct, Tour 3, on September 19, 2012 confirmed that Sgt.



§ 87(2)(b)

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2 K).

#### **Subject Officers CCRB History**

- PO Christensen has been a member of the service for 7 years and there are no substantiated CCRB allegations against him (encl. 2 A-B).
- PO Fattah has been a member of the service for 5 years and there are six substantiated CCRB allegations against him (encl. 2 C-E):
  - In CCRB Case 201010737, an allegation of a frisk was substantiated against PO Fattah and he forfeited 15 days of vacation.
  - In CCRB Case 201102767, allegations of physical force, discourtesy and a stop were substantiated against PO Fattah and he forfeited 15 days of vacation.
  - In CCRB Case 201200232, allegations of a stop and a frisk were substantiated against PO Fattah and he received command discipline.
- PO Organistka has been a member of the service for 6 years and there are no substantiated CCRB allegations against him (encl. 2 F).
- PO Zakiewicz has been a member of the service for 6 years and there are no substantiated CCRB allegations against him (encl. 2 G).

#### **Conclusion**

#### **Allegations Not Pleaded**

§ 87(2)(g)

#### **Identification of Subject Officers**

§ 87(2)(b) alleged that he requested every officer's shield number while he was still in his driver's seat, at the beginning of the incident. PO Zakiewicz confirmed that he was working with PO Organistka and PO Christensen that evening. PO Organistka and PO Christensen acknowledged that both they and PO Zakiewicz interacted with § 87(2)(b) and § 87(2)(b). PO Zakiewicz could not recall the incident, but PO Organistka and PO Christensen said that PO Zakiewicz was the officer who approached the driver's side door of § 87(2)(b)'s vehicle with PO Christensen. § 87(2)(g)

§ 87(2)(b) alleged that an officer refused to provide his shield number and threatened him with the use of force while at the back of the Conditions van, at the conclusion of the incident. PO Fattah could not recall the incident, but both Sgt. Cruzado and Sgt. Cruzado's memo book confirmed that PO Fattah was the Sergeant operator that evening. Sgt. Cruzado confirmed that both he and PO Fattah arrived at the location before § 87(2)(b) was placed in the Conditions vehicle. § 87(2)(b) correctly identified PO Fattah as being one of two arresting officers from a previous incident. Further, § 87(2)(b)'s description of the officer who refused to provide his badge number and threatened him closely matched that of PO Fattah. § 87(2)(g)

§ 87(2)(b) alleged that the black officer who was the operator of the Conditions van threatened him with the use of force. PO Case and PO Scantlebury were the only black officers at the incident location. PO Case could not recall the incident. PO Scantlebury could not recall who was driving, but knew that it was most likely not him because he does not usually drive.

§ 87(2)(g)

## **Investigative Findings and Recommendations**

### **Allegation A – Abuse of Authority: Officers searched the car in which**

**§ 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that § 87(2)(b)'s vehicle was searched.

§ 87(2)(g)

While § 87(2)(b) denied ownership of the marijuana, he said that it was located under the back, driver's side seat of his vehicle. § 87(2)(b) saw PO Christensen search the middle console, under the front seats, in the glove compartment and possibly in the trunk. § 87(2)(b) saw PO Organistka search the back seats, maybe saw PO Zakiewicz searching his car and thought that PO Fattah may have searched his trunk. § 87(2)(b) saw PO Christensen, PO Organistka and PO Zakiewicz search under the seats, in the glove compartment and in the ash trays.

PO Christensen stated that upon approaching § 87(2)(b)'s vehicle, he smelled the odor of marijuana emanating from the vehicle and the odor became stronger as he approached. While looking inside of § 87(2)(b)'s window, PO Christensen noticed a small Ziploc bag of marijuana in plain view in the middle console area. PO Christensen recognized the green, leafy substance in the bag as marijuana because of his experience and because of the smell of marijuana emanating from § 87(2)(b)'s vehicle. PO Zakiewicz did not see the marijuana in plain sight within § 87(2)(b)'s vehicle. However, upon approaching § 87(2)(b)'s vehicle, PO Zakiewicz did smell the odor of marijuana emanating from it. PO Alexander also confirmed that he smelled the odor of marijuana emanating from § 87(2)(b)'s vehicle.

The smell of marijuana alone is sufficient to provide police who are trained and experienced in the use of marijuana with probable cause to search anywhere in the vehicle. People v. Johnson (2009), 901 N.Y.S.2d 909. (encl. 1 A-C).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation B – Abuse of Authority: PO Brian Christensen refused to provide his shield number to**

### **Allegation C – Abuse of Authority: PO Konrad Zakiewicz refused to provide his shield number to**

### **Allegation D – Abuse of Authority: PO Hemadeh Fattah refused to provide his shield number to**

§ 87(2)(b) alleged that upon being stopped, while PO Christensen and PO Zakiewicz were just outside of his car window, he requested all officers' shield numbers. However, neither PO Christensen nor PO Zakiewicz provided their shield numbers. At the conclusion of the incident, while entering the prisoner van, § 87(2)(b) alleged that PO Fattah did not provide his shield number when asked.

PO Christensen and PO Zakiewicz denied refusing to provide their shield numbers and

did not hear any other officer do so. Neither PO Organistka nor PO Fattah recalled the incident at all. At no point did Sgt. Cruzado, PO Alexander, PO Case or PO Scantlebury hear an officer refuse to provide their shield number or threaten any individual with the use of force.

§ 87(2)(g)

**Allegation E – Abuse of Authority: PO Hemadeh Fattah threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) said that when he asked PO Fattah for his badge number PO Fattah told him that if he has a gun he should just run because they will shoot him. § 87(2)(b) was present at the back of the van at the conclusion of the incident and he did not allege PO Fattah threatening § 87(2)(b) with the use of force.

Neither PO Organistka nor PO Fattah recalled the incident at all. At no point did PO Christensen, PO Zakiewicz, Sgt. Cruzado, PO Alexander, PO Case or PO Scantlebury hear an officer threaten § 87(2)(b) with the use of force.

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Discourtesy: PO Konrad Zakiewicz spoke rudely to § 87(2)(b)**

**Allegation G – Abuse of Authority: PO Philip Case threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) provided a phone statement to the CCRB because he did not live in New York City. However, § 87(2)(b) did not send back the notarized verification form. One letter was mailed and three calls were placed to § 87(2)(b) after he was interviewed on the phone requesting the signed verification form. To date, § 87(2)(b) has not sent back the verification form or contacted the CCRB to pursue his portion of the complaint. § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)



§ 87(4-b) § 87(2)(g)

[Redacted text block]

Team: 3

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date